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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,217	10/11/2001	Paul R. Michaelis	4366-48	9331

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EXAMINER

HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,217

Applicant(s)

MICHAELIS, PAUL R.

Examiner

Jefferey F Harold

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The references listed in the Information Disclosure Statement submitted on December 23, 2002, have been considered by the examiner (see attached PTO-1449).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-5, 9-21 and 23-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Matheny (United States Patent 4,773,088).

Regarding claim 1, Matheny discloses a telephone amplifier with switchable gain control. In addition, Matheny discloses a method for operating a voice-based telecommunications device, comprising: (a) monitoring the voice-based telecommunication device for off-hook state; and (b) when the off-hook state is detected, automatically resetting volume to normal amplification, as disclosed at column 6, line 35 through column 7, line 68 and exhibited in figure 4.

Regarding claim 2, Matheny discloses everything claimed as applied above (see claim 1), in addition, Matheny discloses wherein step (a) the on-hook state is monitored, (c) monitoring the voice-based telecommunications device for an off-hook state; and (d) when the off-hook state is detected, performing steps (a) and (b) as disclosed at column

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3, lines 52-68; column 6, line 35 through column 7, line 68 and exhibited in figures 3 and 4.

Regarding claim 3, Matheny discloses everything claimed as applied above (see claim 1), in addition, Matheny discloses wherein the monitoring step (a) comprises comparing an electrical parameter of the voice-based telecommunications device to a predetermined value, as disclosed at column 3, line 52 through column 4, line 11.

Regarding claim 4, Matheny discloses everything claimed as applied above (see claim 1), in addition, Matheny discloses (c) when the on- or off-hook state is detected, altering the state of a state indicator; and wherein the resetting step (b) comprises detecting the altered state of the state indicator and resetting the acoustic parameter to the predetermined level in response thereto, as disclosed at column 4, line 44 through column 5, line 6.

Regarding claim 5, Matheny discloses everything claimed as applied above (see claim 1), in addition, Matheny The method of Claim 1, wherein in the automatically resetting step (b) the acoustic parameter is decreased to the predetermined level, as disclosed at column 7, lines 5-32.

Regarding claim 7, Matheny discloses everything claimed as applied above (see claim 1), in addition, Matheny discloses wherein the acoustic parameter is volume, as disclosed at column 7, lines 5-32.

Regarding claim 8, Matheny discloses everything claimed as applied above (see claim 1), in addition, Matheny discloses wherein, when the telecommunications device

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is in an off-hook state, the acoustic parameter is freely adjustable by a user, as disclosed at column 3, lines 7-36 and exhibited in figure 2.

Regarding claims 9-21 and 23-25, they are interpreted and thus rejected for the reasons set forth above in the rejection of claims 1-5, 7 and 8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matheny in view of well know prior art (MPEP 2144.03).

Regarding **claim 6**, Matheny discloses everything claimed, as applied above, (see claim 1), however, Matheny fails to disclose wherein the predetermined level is user adjustable. However, the examiner takes official notice of the fact that it was well know in the art to provide disclose wherein the predetermined level is user adjustable.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Matheny by specifically providing disclose wherein the predetermined level is user adjustable, for the purpose of customizing the system for various environments.

Regarding claim 22, it is interpreted and thus rejected for the reasons set forth above in the rejection of claim 6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F Harold whose telephone number is 703-306-5836. The examiner can normally be reached on Monday - Friday 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H Tran can be reached on 703-305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jefferey F Harold
Examiner
Art Unit 2644



JFH
February 22, 2005